

ORIGINAL House of Representatives

Report of Proceedings

Hearing held before

Subcommittee on Oceanography
Subcommittee on Fisheries and Wildlife Conservation

COMMITTEE ON MERCHANT MARINE AND FISHERIES

MARKUP OF H. R. 4297

Washington, D. C.

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MARKUP OF H. R. 4297

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THURSDAY, MARCH 31, 1977

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House of Representatives,

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Subcommittee on Oceanography, and

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Subcommittee on Fisheries and Wildlife Conservation

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and the Environment,

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Washington, D. C.

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The Subcommittees met, pursuant to notice, at 10:25 a.m.

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in Room 1334 Longworth House Office Building, Hon. John B.

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BreauX (Chairman of the Subcommittee), presiding.

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Present: Representatives BreauX, Metcalfe, Studds,

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Zeferetti, Oberstar, Hughes, Mikulski, Bonior, Akaka,

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Forsythe, and Pritchard.

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Staff present: Ernest Corrado, Chief Counsel; Thomas

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R. Kitsos, Professional Staff Member; Jack E. Sands, Deputy

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Minority Counsel; Judy A. Townsend, Professional Staff Mem-

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ber, Grant Wayne Smith, Professional Staff Member; Donna Kay

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Firkin, Subcommittee Clerk; and Curtis L. Marshall, Pro-

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fessional Staff, Minority.

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Mr. BreauX. The Subcommittee on Fisheries and Wildlife

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Conservation and the Environment, and the Subcommittee on

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Oceanography will please come to order.

1 The Chair would like to recognize the presence of a
2 quorum for a markup.

3 The Chair would like to announce that two subcommittees
4 are meeting for the purpose of marking up one bill, H. R.
5 4297, the Ocean Dumping Authorizations, and then we will
6 meet for the purpose of marking up two additional bills in
7 the Subcommittee on Oceanography, the sea grant authorization
8 and also NACOA authorizations.

9 Today, the Subcommittees on Oceanography and Fisheries
10 and Wildlife Conservation and the Environment will conduct
11 markup on H. R. 4297, a bill to amend the Marine Protection,
12 Research and Sanctuaries Act of 1972, to authorize appropria-
13 tions for Fiscal Year 1978.

14 Briefly, this Act is divided into three parts: Title I
15 establishes a policy to prevent or strictly limit the dumping
16 of materials which adversely affect the marine environment.

17 In addition, this title authorizes the creation of an
18 ocean-dumping permit program to be administered by EPA and
19 the Corps of Engineers; Title II authorizes NOAA to conduct
20 research on ocean pollution; and, lastly, Title III provides
21 for the designation and regulation of marine sanctuaries.

22 The Marine Protection Research and Sanctuaries Act of
23 1972, commonly known as the Ocean Dumping Act, is one of a
24 myriad of laws passed over the last decade intended to pro-
25 tect our environment.

1 For many of these laws, the road to successful implementa-
2 tion has been far from smooth. The Ocean Dumping Act is no
3 exception.

4 I feel that during the next decade, the collective vigi-
5 lance of those of us concerned with oceanic matters will be
6 required to ensure the protection of the marine environment.

7 As land and fresh-water-based waste disposal and pollu-
8 tion activities become incr-asingly more restrictive, it is
9 important that the oceans, which have traditionally suffered
10 from a "Big Sink" perception, be afforded comparable protec-
11 tion.

12 One step in the direction of accomplishing this is to
13 ensure that the various programs authorized in the Ocean Dump-
14 ing Act receive adequate funding.

15 This Act, under previous Administrations, has suffered
16 chronically from low levels of appropriations as recommended
17 by OMB. For instance, until Fiscal Year 1977, Title II had
18 received no moneys and Title III has yet to be appropriated
19 any funds.

20 The bill before us, H. R. 4297, authorizes \$4.8 million
21 to be appropriated for purposes of Title I, \$6.0 million to be
22 appropriated for purposes of Title II, and \$500,000, to be
23 appropriate for purposes of Title III.

24 Because NOAA has not been appropriated moneys under Title
25 II until this year, the functions of dump-site characterization

1 surveys, formulation of dump-site environmental impact state-
2 ments, as well as continuous monitoring of dump sites, have
3 been possibly only through reprogramming funds, the operation
4 of similar programs mandated by other laws, or funds
5 appropriated to EPA under Title I.

6 It is my feeling that the level of operation of these
7 functions has been far from adequate.

8 According to EPA, the current cost of one monitoring
9 cruise alone is on the order of \$200,000 to \$400,000. A
10 complete baseline survey requires anywhere from two to four
11 such cruises. The monitoring of one dump site alone requires
12 at least two such cruises a year.

13 To give you an idea how massive this problem is, there
14 are currently 11 active non-dredged material dump sites and
15 over 120 dredged material dump sites.

16 According to EPA's annual report, issued in 1976, base-
17 line surveys have been conducted on only two active dump sites
18 and one proposed sludge dump site in the New York Bight.

19 I feel the authorization levels included in H. R. 4297
20 provide the opportunity for NOAA to initiate a strong and
21 long-overdue ocean pollution research program.

22 In addition, H. R. 4297 will provide a funding level that
23 will allow EPA and NOAA to more adequately monitor and study
24 ocean-dumping activities.

25 It was announced by the Chairman at the hearing on Ocean

1 Dumping that we were merely considering the authorization of
2 this legislation and it was the intent of the Chair, after
3 as passed the May 15 deadline for authorization bills, to go
4 into extensive oversight hearings on the actual functions of
5 the Ocean Dumping Act and how they are being carried out.

6 So with those opening remarks, Mr. Forsythe, do you have
7 a statement before we proceed?

8 Mr. Fostythe. No.

9 Mr. Breaux. Would counsel give a brief explanation of
10 what I said on the Ocean Dumping Act?

11 Mr. Smith. Essentially, the bill is divided into three
12 parts. The Marine Protection Research and Sanctuaries Act has
13 three titles.

14 Title I authorizes funds to the Environmental Protection
15 Agency for the purpose of administering the program for ocean
16 dumping, issuing permits, evaluating the applicants from
17 various municipalities and industries to determine whether the
18 material to be dumped falls within EPA's criteria, and it is
19 also EPA's responsibility to look into alternatives for dis-
20 posal of these materials into the oceans.

21 Title II is essentially a research section, authorizing
22 funds for NOAA to monitor ocean dumpsites, to monitor whether
23 the material being dumped has an effect on the marine environ-
24 ment and is also their responsibility to look into marine
25 alternatives.

end 1

1 Title III also goes to NOAA for the designation and regula-
2 tion of marine sanctuaries. One is the United States monitor
3 site off North Carolina and the other one is the Coral Reef
4 Sanctuary off the Coast of Florida.

5 Essentially, the Committee bill is proposing the level of
6 funding for EPA, NOAA, and NOAA for marine sanctuaries remain
7 at the same level as last year, which is an increase over the
8 President's request.

9 Title I is authorizing \$4.8 million.

10 Title II is authorizing \$6 million and Title III is
11 authorizing \$500,000.

12 Mr. Breaux. Would you cover the funding, what has been
13 happening on Title II?

14 I understand there is no money that has been appropriated
15 for Title II and the research that NOAA has been doing is
16 research from funds other than that contained in Title II?

17 Mr. Smith. Yes; Title II was not appropriated as funds
18 until last year, when they were appropriated funds for looking
19 into the sex of ocean dumping on the marine environment.

20 This year, the Administration is requesting \$2.7 million
21 and the Committee recommendation remains the same as last year,
22 \$6 million.

23 They have been reprogramming some funds within NOAA under
24 a separate line-item budget request which essentially just
25 allowed the funding for the MESA project in New York, and did

1 not take into account any other fundings along the Atlantic
2 or Gulf Coast.

3 Mr. Breaux. Is there any discussion?

4 Mr. Pritchard. Mr. Chairman?

5 Mr. Breaux. Mr. Pritchard is recognized.

6 Mr. Pritchard. Could you give us some idea on what they
7 spend money in maintaining ocean sanctuaries?

8 Mr. Smith. They are presently spending two --

9 Mr. Pritchard. How do they spend money?

10 Mr. Smith. They spend money monitoring the sanctuaries.
11 There are rules and regulations which provide their activities
12 such as diving and certain dumping activities which don't fall
13 within the Ocean Dumping Act and they just generally monitor
14 it to be sure that the rules and regulations are followed.

15 Mr. Pritchard. Half a million dollars?

16 Mr. Smith. That is what is being proposed, not for the
17 two sites that are presently designated. They do not require
18 large amounts of money to maintain them, actually. The largest
19 expenditure, so far, has been in the promulgation of rules and
20 regulations and issuance of an environmental impact statement
21 to have the site designated.

22 The proposal is that there are a number of sites which
23 the Commerce Department and NOAA are considering, in addition
24 to the ones presently designated.

25 Our in California and Seattle, they want to designate a

1 killer whale sanctuary. Also in the Virgin Islands, there is
2 the Virgin Islands National Park and the Buck Island National
3 Monument.

4 These funds would be expended for the issuance of environ-
5 mental impact statements for these projects.

6 Mr. Pritchard. I understand about that.

7 Mr. Breaux. Is there any other discussion?

8 Mr. Hughes. Mr. Chairman?

9 Mr. Breaux. The gentleman from New Jersey.

10 Mr. Hughes. I wonder if counsel can tell us whether the
11 Environmental Protection Agency has indicated that these are
12 all the funds that are needed in this fiscal year, this next
13 fiscal year to monitor the dumping program, to provide the
14 research and development and to take care of the environmental
15 assessments that are anticipated?

16 Mr. Smith. You are talking about Title II, essentially?

17 Mr. Hughes. Yes.

18 Mr. Smith. No; actually this would be more than has been
19 done in the past. It will not cover all dumping sites because
20 there are some 11 dumping sites that are presently off the
21 Atlantic Coast.

22 If the amount of funds authorized by the Committee were
23 appropriated, NOAA would be able to monitor seven of the 11
24 dump sites as opposed to some four that they are presently
25 monitoring.

1 All of the dump sites would not be able to be monitored
2 properly.

3 Mr. Hughes. Which would not have been monitored properly?

4 Mr. Smith. There are some off the Gulf, off the Coast of
5 Galveston and New Orleans.

6 Additional funds would go into Dump Site No. 106. It is
7 106 miles off the Coast of New Jersey. They will try to
8 determine whether that could be used for dumping sites for
9 Philadelphia and Camden.

10 Mr. Hughes. How much of the funds would be used to
11 monitor?

12 Mr. Smith. To properly monitor a dump site, one would
13 need to conduct between two and four cruises at oceanographic
14 research levels. One cruise would require \$400,000. So for
15 each dumpsite it would be \$6 million maximum to properly con-
16 duct a baseline survey. Multiplied by 11 times, we are talking
17 about somewhere in the vicinity of \$17 million.

18 If you are going to maximum levels for properly monitor-
19 ing them and considering all the dumpsites, a full baseline
20 survey would be conducted on those dumpsites.

21 Mr. Hughes. Why, for instance, was it not considered
22 important, or a priority to monitor the dumpsites off our
23 Chairman's shores?

24 Mr. Smith. I do not know the answer to that question.
25 I would assume that the reason they are not considering that

1 a priority dumpsite is because of the volume of waste dumped
2 off the Gulf Coast as compared to the waste dumped off New
3 York and New Jersey.

4 Mr. Breaux. If you will yield, on the history of the
5 difference between actual authorization and appropriation,
6 hasn't the actual appropriation always been less than what we
7 have authorized?

8 Mr. Smith. The Committee has historically recommended
9 levels higher than the Administration has requested and higher
10 than the Appropriations Committee has approved.

11 Last year was the first time we saw a change.

12 Last year was the first year that any funds were
13 appropriated under Title II. We had a higher level before
14 we went into markup of some \$6 million for Title II and the
15 Office of Management and Budget came in with a request of
16 \$5.6, which was a difference of \$400,000. It is the first
17 time they had actually requested funding, so most of the mem-
18 bers felt that there was a change in policy. That did not
19 occur.

20 Mr. Hughes. So for us to do a thorough job of monitoring
21 in the United States, we would have to have a total appropria-
22 tion of \$17 million?

23 Mr. Smith. That is if it is taken to the maximum stage.
24 There has been some discussion during the Committee hearings
25 whether in light of the fact that there is a 1981 deadline

1 phaseout on ocean dumping whether, as a policy question, you
2 should expend the money for monitoring sites that you know will
3 be eventually phased out or whether we should be looking at
4 alternatives to oceans for dumping.

5 Mr. Hughes. I would offer an amendment which would
6 legislatively impose a deadline. I do not believe the Environ-
7 mental Protection Agency and I do not think the municipalities
8 and industries that are really dumping believe it.

9 It is time that we pay attention to that proposed cutoff
10 date legislatively.

11 Mr. Forsythe. Will the gentleman yield?

12 Mr. Breaux. The gentleman from New Jersey is recognized
13 for five minutes.

14 Mr. Forsythe. Thank you, Mr. Chairman.

15 I was rather vigorously really opposing the spending of
16 substantial sums in this business of looking at new dumpsites
17 or this whole area.

18 These funds ought to be used to find a solution toward
19 ending ocean dumping and money should be put into research.
20 In this short time frame, the proposed plan is still spending
21 money for new places to dump. I think it is pretty
22 ridiculous; but life is life.

23 To beat that deadline, we still have to watch very close-
24 ly those that we do have. For that reason, I will support
25 this legislation as it is drafted and we will be continuing

1 to watch it, particularly in the oversight hearings.

2 The Chairman has promised us to put as much heat on the
3 Administration as we can in this area.

4 I would agree with my colleague from New Jersey. I am
5 not sure anyone believes we are going to do what we have been
6 saying for a long period of time.

7 Mr. Breaux. The Chair has announced that the bill is
8 open at any point.

9 Do you have an amendment?

10 Do you want to offer an amendment?

11 Mr. Hughes. Will my colleague yield?

12 Mr. Forsythe. Yes.

13 Mr. Hughes. Maryland filed suit against the Environmental
14 Protection Agency over a dumpsite off of Maryland and to settle
15 that in the District Court, what did they do?

16 They moved it off to New Jersey. And I expect if New
17 Jersey filed suit, they would move it to New York.

18 Then I would expect that Mr. Zeferetti would be objecting.

19 We are dumping in other areas as my colleagues well know,
20 and I do not want to spend any money unnecessarily; but it
21 seems to me that we ought to be trying to determine what impact
22 the dumping has on all the areas where we are dumping and it
23 may be spending money perhaps in a fashion where you and I
24 wouldn't want to spend the money; but it seems to me that we
25 are only really approaching the question in a very cursory

1 manner as to what impact ocean dumping has.

2 There have been some suggestions that perhaps all dumping
3 is not bad. Perhaps if we take the toxic substances out of the
4 dumping, perhaps it would act as a nutrient.

5 Mr. Forsythe. It is a part of the research?

6 Mr. Smith. Yes.

7 In the meantime, we are damaging valuable areas. We are
8 monitoring only certain dumpsites, and that is wrong.

9 Mr. Zeferetti. Would you yield?

10 Mr. Forsythe. Yes.

11 Mr. Zeferetti. I thought under Title II there was a
12 provision for that type of research where we would know what
13 the effects would be overall.

14 I think there is money allocated or put aside for that
15 purpose.

16 Mr. Forsythe. It is true; but not nearly enough, in my
17 opinion. And really, every dollar we are still spending look-
18 ingover new dumpsites I think could be better spent.

19 I do not really take issue with my colleague from New
20 Jersey that we have to watch these dumpsites.

21 We have MESA on the New York site that is developing the
22 type of research that we need as far as ocean dumping is con-
23 cerned; but this is a much broader issue than this legislation
24 really covers, and we should do it in oversight.

25 Mr. Breaux. The gentleman from New Jersey.

1 Mr. Hughes. I have an amendment at the desk.

2 Mr. Breaux. Will counsel read that amendment? I think
3 he has a copy.

4 Mr. Smith. Under Title II, we are not just talking about
5 sewage sludge, but dredge spoil. Some 90 percent of all the
6 materials dumped into the ocean is dredge spoil and not one
7 site has been under evaluation effect it has on the environ-
8 ment.

9 Mr. Hughes. I understand.

10 Mr. Smith. The amendment at the desk offered by Mr.
11 Hughes:

12 "On page 2, after line 14, insert the following new
13 section:

14 "Sec. 4. Section 102 of such Act (33 U.S.C. 1412) is
15 amended by adding at the end thereof the following new sub-
16 section:

17 "(f) The Administrator may not issue any permit under
18 this title after December 31, 1981, for the transportation of
19 sewage sludge for the purpose of dumping it into ocean waters
20 or into waters described in section 101(b) of this Title."

21 Mr. Breaux. The gentleman is recognized for five minutes
22 in support of his amendment.

23 Mr. Hughes. Thank you, Mr. Chairman.

24 I won't take the five minutes because we are running out
25 of time.

1 We are going into session at 11 o'clock.

2 The Environmental Protection Agency has been assuring the
3 members of Congress who have been concerned about ocean dumping
4 that 1979 is the cutoff date. Yet, we have seen the waffling
5 that gives the major polluters the idea that they can continue
6 to take the same approach, the out-of-sight, out-of-mind
7 approach that they have taken on ocean dumping.

8 We have the technology today to move ahead and do other
9 things with sludge. It is not a matter of not having the tech-
10 nology.

11 The major polluters find it much more economical to dump
12 in the ocean. We find that litigation is increasing in the
13 area. Nobody wants a dumpsite off their shores.

14 All my amendment is doing is reassuring the Environmental
15 Protection Agency, legislatively, that we agree with what they
16 told us.

17 My amendment has the deadline of 1981.

18 These things are destroying our commercial fishing industry.
19 My people are extremely concerned over the ocean dumping issue.
20 It has destroyed the New York Bight area. They are looking
21 for other dumpsites off of our beaches.

22 I have a multi-billion-dollar tourist economy, the second
23 largest industry in the State of New Jersey, and we are
24 absolutely scared to death about what is happening to our
25 waters off of our beaches and I am imploring my colleagues to

1 support me on this particular issue.

2 Mr. Studds. Will you yield?

3 Mr. Hughes. Yes.

4 Mr. Studds. Does the gentleman's concern extend also to
5 the dumping of dredge spoil?

6 Mr. Hughes. We know nothing about the impact of dredge
7 spoint, as counsel indicated previously. We do not know what
8 we are doing to the marine environrent. We have to have
9 alternatives to dumping this stuff in the ocean.

10 I am not saying I am totally opposed to all forms of
11 dumping. The present approach to ocean dumping should be
12 stopped by 1981.

13 If our research and development establishes that we can
14 dump things safely into our ocean without destroying our
15 ecosystems or marine environment --

16 Mr. Studds. I agree.

17 Has the Environmental Protection Agency addressed dredge
18 spoil dumping?

19 Mr. Hughes. No; they are planning to go into monitor
20 dredge spoil sites the first time this year.

21 The Army Corps of Engineers has been spending, under
22 separate statute, segments of money to find the effect on
23 inland waters and marine environment.

24 Mr. Studds. I am glad.

25 It has an unhealth percentage of sewage to start with. I

1 support that.

2 Mr. Breaux. Mr. Oberstar is recognized for five minutes.

3 Mr. Oberstar. There does not appear to be in the pro-
4 posal here or in the legislation, however, any countervailing
5 pressure on the Environmental Protection Agency or the Corps
6 of Engineers to propose alternatives to ocean dumping. I am
7 all for stopping it.

8 I think, at the same time, we need some deadlines for
9 them to do the other things that are necessary, the research
10 within a specific time frame, the proposals of alternative
11 dump sites, whether ocean or land; and we did not get any of
12 that in the course of our hearings.

13 There is a sense of urgency in the gentleman's amendment
14 to terminate dumping by 1981. The record is ample that
15 termination is needed, that a deadline is needed for the
16 Environmental Protection Agency.

17 There is also needed -- and I say this on the basis of
18 my sitting through a hearing this year and last year, equal
19 pressure and commitment from the Administration for adequate
20 funding and a deadline at which to measure progress by the end
21 of this year or next year, or fiscal, or whatever guideline
22 you take to make some progress on this effort; and we do not
23 really have that in our bill; and we do not have that in the
24 gentleman's amendment.

25 Mr. Hughes. Will my colleague yield on that?

1 Mr. Oberstar. Yes.

2 Mr. Hughes. I think my colleague is absolutely correct;
3 and I have introduced legislation to make sure we commit re-
4 sources to the cycling technologies that do exist; and I have
5 been assured that we have enough lead time for the major
6 polluters as well as the minor ones that are being phased out
7 gradually to meet that deadline.

8 It is a matter of committing our resources to do so but,
9 unfortunately because of the waffling that has been taking
10 place, and because of the limited funds in many instances,
11 there is a general feeling that 1981 is the deadline and
12 ocean dumping is the easiest and cheapest way out.

13 We have to focus attention upon the technologies that
14 exist and bring on line the recycling facilities that are
15 needed in the major metropolitan areas in particular; so we
16 can stop ocean dumping. That has to come first.

17 Mr. Oberstar. I asked the Environmental Protection Agency
18 for some examples of technology, new breakthroughs and new
19 developments which have been developed as a result of what
20 they have done and they came up with nothing. We have to
21 find a way to put the squeeze on them to do research.

22 Mr. Breaux. Your time has expired.

23 The Chair would like to comment on the gentleman's
24 amendment.

25 The principal of the Act as it has been passed in 1972

1 is not to eliminate all ocean dumping but to prohibit or limit
2 dumping of materials that are harmful to the marine environ-
3 ment. That was the goal that was in existence in the past.

4 Now, the particular problems that I know give the gentle-
5 men a great deal of concern, I know in the City of Camden, the
6 Environmental Protection Agency has not issued the City of
7 Camden a permit. They denied a permit application and the
8 Federal Court said that we have a practical problem. You have
9 sewage sludge that is mounting up in your city and you will
10 have to do something with it.

11 The Federal Court ordered the Environmental Protection
12 Agency to come in and give them an emergency permit on a three-
13 month basis. They have to come back and apply. It is on an
14 emergency basis.

15 I think we see for the first time that we are finally
16 getting funds entitling us to do the research that is
17 necessary to find some alternatives to this problem that are
18 realistic and that we can afford in this country.

19 Therefore, I think we are making progress and we just
20 have to, as a Committee, make sure that they are doing the
21 job under the present existing statute.

22 Although it is a known goal to put in an absolute pro-
23 hibition, it is not in the best interests of the problem.

24 Therefore, do I hear the request?

25 Mr. Hughes. I so move.

end

1 Mr. Breaux. All those in favor, signify by saying "aye."

2 (Chorus of "aye.")

3 Mr. Breaux. Those opposed?

4 (No response.)

5 Mr. Breaux. Any other comments?

6 The previous question is in order.

7 All those in favor of the amendment, signify by saying
8 "aye."

9 (Chorus of "aye.")

10 Mr. Breaux. All those opposed, signify by saying "no."

11 (Chorus of "no.")

12 Mr. Breaux. The Chair will request a show of hands.

13 All those in favor of the amendment, signify by saying
14 "aye."

15 (Show of hands.)

16 Mr. Breaux. All those opposed, "no."

17 (Show of hands.)

18 Mr. Breaux. By a show of hands, the vote is seven for
19 the amendment and three against.

20 The gentleman vote is closed.

21 Are there any other amendments?

22 Do I hear a request for the previous question on the
23 final passage?

24 Mr. Zeferetti. I so move.

25 Mr. Breaux. All those in favor of the bill to be reported

1 to the full Committee as amended signify by saying "aye."

2 (Chorus of "aye.")

3 Mr. Breaux. All those opposed, signify by saying "nay."

4 (No response.)

5 Mr. Breaux. It will be reported to the full Committee.

6 I ask unanimous consent that the staff make any technical
7 corrections and conforming changes necessary and report it to
8 the Committee.

9 There being no objection, it is so ordered.

10 (Whereupon, at 10:55 a.m., the above-entitled matter was
11 concluded and the Subcommittee was adjourned, to reconvene
12 subject to the call of the Chair.)

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